CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

August 8, 2013 Meeting Agenda Item <u>4</u>

SUBJECT: Schulein Parking Use Permit and Variance - (PA2013-090)

2828 East Coast Highway

Conditional Use Permit No. UP2013-007

Variance No. VA2013-007

APPLICANT: Laidlaw Schultz Architects – Scott Laidlaw

PLANNER: Fern Nueno, Associate Planner

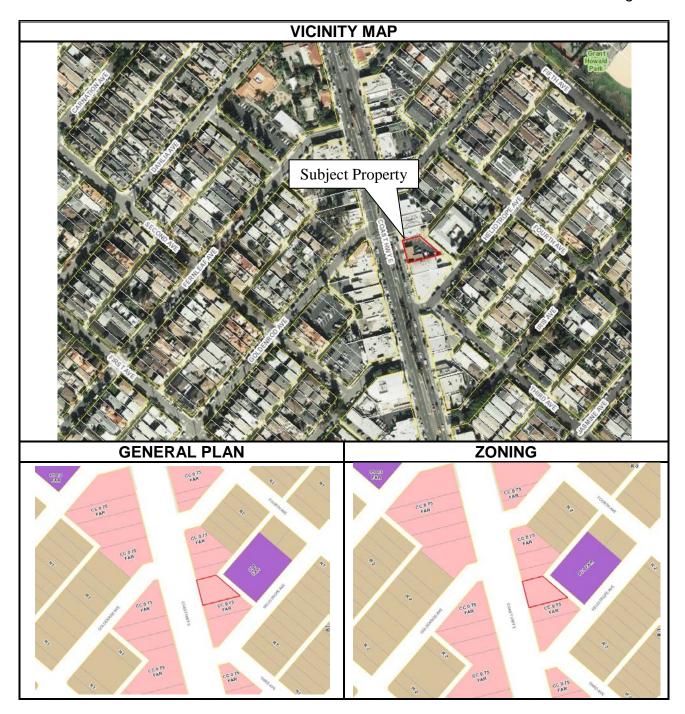
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PROJECT SUMMARY

The applicant proposes to demolish the existing building and construct a two-unit commercial building with a surface parking lot with nine spaces. The applicant requests a Conditional Use Permit to establish a Parking Management Plan to reduce the required off-street parking by two parking spaces (11 required, 9 proposed), and a Variance to allow the parking spaces to encroach 1-foot into the required 5-foot alley setback and for more than 10-feet of the alley right-of-way to be used to accommodate the required drive aisle width.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ___ approving Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007 (Attachment No. PC 1).



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Corridor Commercial (CC)	Commercial Corridor (CC)	Photo Shop
NORTH	Corridor Commercial (CC)	Commercial Corridor (CC)	Retail Sales
SOUTH	Corridor Commercial (CC)	Commercial Corridor (CC)	Retail Sales
EAST	Private Institutions (PI)	Private Institutions (PI)	Religious Facility
WEST	Corridor Commercial (CC)	Commercial Corridor (CC)	Retail Sales and Eating and Drinking Establishments

INTRODUCTION

Project Setting

The subject property is located in Corona del Mar on East Coast Highway between Goldenrod Avenue and Heliotrope Avenue. Corona del Mar is primarily developed with single- and two-unit residential uses with commercial uses along East Coast Highway. The subject lot has 70 linear feet of street frontage, an alley to the rear, and is approximately 5,568 square feet in area. There is an approximately 6-foot elevation difference from the southeastern corner of the property at the alley to the lower grade along the front property line at East Coast Highway. The site is currently developed with a 1,400-square-foot photo shop (retail sales and service use) with a surface parking lot containing eight parking spaces.

Project Description

The applicant proposes to construct a single-story, 2,637-square-foot commercial building with a surface parking lot containing nine spaces. The anticipated use is retail sales. The project is designed at a pedestrian scale with the building line along East Coast Highway and the parking accessed from the rear alley. The building would consist of two suites separated with a corridor providing access from parking lot to the front entrances of the suites and to the street. The front of the building would be constructed of glass, and would be setback from the property line to incorporate planters and landscaping along East Coast Highway. The site currently has a drive aisle on East Coast Highway. The proposal includes closing the curb cut and providing one additional on-street space.

DISCUSSION

Analysis

General Plan and Zoning Code

The subject property is designated as Corridor Commercial (CC) within the Land Use Element of the General Plan and is located within the Commercial Corridor (CC) Zoning District. These designations are intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. Retail sales is the anticipated use and is consistent with these designations. Other uses may be permitted in accordance with the CC Zoning District. Furthermore, the project is designed to foster pedestrian activity by closing off the curb cut on East Coast Highway and using an open design with a wide corridor between the two suites. General Plan Policy LU 6.16.3 encourages closing curb cuts that interrupt the continuity of street-facing building elevations in pedestrian-oriented districts and

locations of high traffic volumes. The proposed alley access to parking is consistent with this policy.

Conditional Use Permit for a Reduction of Off-Street Parking

Pursuant to Zoning Code Chapter 20.40 (Off-Street Parking), retail sales uses require one parking space for every 250 square feet of gross floor area. Other uses of the site would be allowed if the parking requirement does not exceed this rate. The applicant proposes to construct a 2,637-square-foot building, which would require eleven parking spaces. A detailed project description submitted by the applicant is provided as Attachment No. PC 3. The applicant requests a Conditional Use Permit to allow a reduction in the required number of off-street parking spaces pursuant to Section 20.40.110 (Adjustments to Off-Street Parking Requirements). Pursuant to this section, the required off-street parking may be reduced with approval of a Conditional Use Permit if the applicant has provided sufficient data to indicate that other parking is available.

The proposed project would create at least one additional on-street parking space by closing the existing curb cut. Moreover, according to the 2008 Walker Parking Study, the on-street parking near the subject property is underutilized. The study found that during the peak times, parking occupancy on East Coast Highway between Goldenrod Avenue and Heliotrope Avenue was less than 50 percent. The subject property is located within Block 5 of the Walker Parking Study and an excerpt showing the parking occupancy maps are provided as Attachment No. PC 4. The complete Walker Parking Study, which was prepared under contract with the City, is available online at: http://www.newportbeachca.gov/Modules/ShowDocument.aspx?documentid=970

Additionally, the applicant seeks to promote pedestrian activity by closing the East Coast Highway curb cut. The single-story building is designed to be at a pedestrian scale and has glass walls, a breezeway, and landscaping. Furthermore, it is anticipated that some patrons would walk or bicycle to the businesses.

Pursuant to Section 20.38.040, existing nonresidential structures within Corona del Mar that are nonconforming because they exceed the allowed floor area may be demolished and reconstructed to their preexisting height and floor area; provided that not less than the preexisting number of parking spaces is provided. The subject property is not nonconforming due to floor area; therefore, this provision is not applicable. If it was applicable, then a new building could potentially be developed without any discretionary review so long as the same number of parking spaces was provided. For example, a building constructed with a 1.0 Floor Area Ratio and no parking could be rebuilt to the same size with no parking without approval of a Conditional Use Permit. This policy was intended to facilitate redevelopment of older structures to help achieve the goal of a pedestrian oriented village.

Parking Management Plan

Pursuant to Section 20.40.110, a parking management plan is required in order to mitigate impacts associated with a reduction in the number of required parking spaces. The draft parking management plan (Attachment No. PC 5) addresses closing the curb cut, additional on-street parking, tandem parking, employee parking, and maximizing parking on the site. In order to be usable and efficient, the tandem parking stalls would be used for employees working within the same suite. The proposed design includes two single-story suites along East Coast Highway with parking along the rear property line. With this pedestrian oriented design, a maximum of seven spaces can be provided across the width of the lot (plus two additional tandem spaces). The intent of the parking management plan is to ensure that the on-site parking is sufficient for the uses on-site, that parking is maximized on-site, and parking is used efficiently.

Use Permit Findings

Pursuant to Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Zoning Code, the Planning Commission must make the following findings in order to approve a Conditional Use Permit:

- 1. The use is consistent with the General Plan and any applicable specific plan;
- 2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;
- 3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;
- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and
- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Staff believes sufficient facts exist to support the Conditional Use Permit request for the reduction in required off-street parking, as demonstrated in the draft Resolution (Attachment No. PC 1). The anticipated retail sales use is consistent the Zoning Code, General Plan, and other relevant policies, and other uses would be permitted in accordance with these policies. The project is designed to foster pedestrian activity by closing the curb cut on East Coast Highway and using an open design with a wide corridor between the two suites. Furthermore, the proposed design and use are

compatible with existing development and allowed uses in the vicinity, including retail sales, service, institutional, and restaurant uses. The proposed retail building is single-story with a Floor Area Ratio of 0.47 where 0.75 is allowed.

Variance for an Alley Parking Setback Encroachment

Pursuant to Section 20.40.070 (Development Standards for Parking Areas), adequate and safe maneuvering aisles are required to be provided within each parking area so that vehicles enter an abutting street or alley in a forward direction. Exceptions are allowed for parking spaces immediately adjoining a public alley, provided no more than 10 feet of the alley is used to accommodate the required drive aisle width and provided the spaces are set back from the alley a minimum of 5 feet. The required drive aisle width for the proposed parking configuration is 18 feet, based on the angle of the parking.

A five foot setback from the alley is required for the parking spaces. Additionally, the code specifies that only 10 feet of the alley can be used for the required drive aisle width (entering and exiting the parking area). The applicant requests a variance to provide a 4-foot setback and to use the entire 14-foot wide alley to meet the required drive aisle width. The required and proposed standards are summarized in Table 1. Several nonresidential properties in the vicinity do not provide the required alley setbacks or drive aisle widths.

RequiredProposedMinimum Setback5'4'Width of Alley Used for Drive Aisle10' maximum14'Drive Aisle Width18'18'

Table 1 – Summary of Standards

Variance Findings

Pursuant to Section 20.52.090 (Variances) of the Zoning Code, the Planning Commission must make the following findings in order to approve a variance:

- There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification;
- Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification;

- 3. Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;
- Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district;
- 5. Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and
- 6. Granting of the variance will not be in conflict with the intent and purpose of this section, this Zoning Code, the General Plan, or any applicable specific plan.

Staff believes sufficient facts exist to support the variance request for the alley setback encroachment for parking and the drive aisle width, as demonstrated in the draft Resolution (Attachment No. PC 1). The shape and topography of the site make it difficult to develop the parking along the rear of the property. The rear property line is skewed and the irregular shape of the lot hinders the development of a typical surface parking lot. The application of the 5-foot alley setback and the drive aisle width limit the area that can be dedicated to parking and would reduce the amount of floor area that could be developed. The proposed 4-foot setback affords the property owner a more usable lot area to maximize the number of parking spaces, yet still provides a functional parking area. The on-site circulation has been reviewed and approved by the City Traffic Engineer.

<u>Alternatives</u>

The Planning Commission has the option to approve a revised project based on the required findings for approval. The Planning Commission also has the option to deny the request for a Conditional Use Permit or Variance if any of the required findings cannot be made (a draft Resolution for denial is provided as Attachment No. PC 2). Denial of the Use Permit and Variance would allow construction of a smaller commercial building that would only require nine (9) parking spaces and would meet all other development standards. With nine (9) parking spaces a 2,250-square-foot building could be constructed (9 spaces times 250 square feet), which is 387 square feet less than the proposed 2,637-square-foot building.

Environmental Review

Staff recommends that the Planning Commission find the project is categorically exempt under Section 15332, of the California Environmental Quality Act (CEQA) Guidelines - Class 32 (In-Fill Development). Class 32 exempts in-fill development meeting the following conditions: the project is consistent with the General Plan and Zoning Code; the

proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare, or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site must be able to be adequately served by all required utilities and public services.

The property is developed, within the City Boundary, less than 5 acres in area, is surrounded by urban uses, and has no value as habitat. The proposed project is consistent with the General Plan and Zoning Code, and would be adequately served by all required utilities and public services. The project would not result in significant effects relating to traffic, noise, air quality or water quality because the proposed project would be developed at a lower intensity than allowed by the General Plan and Zoning Code, and the construction and operation of the project would meet all local, state, and federal requirements. As demonstrated within this report and the attached resolution, the proposed project meets all of the required conditions to qualify for the Class 32 exemption.

Public Notice

Notice of this review was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by: Submitted by:

Fern Nueno, Associate Planner Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 Draft Resolution - Approve

PC 2 Draft Resolution – Deny

PC 3 Applicant's Project Description

PC 4 Walker Parking Study Excerpt

PC 5 Parking Management Plan

PC 6 Project Plans

Draft Resolution – Approve

RESOLUTION NO.	
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A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING CONDITIONAL USE PERMIT NO. UP2013-007 FOR A REDUCTION IN REQUIRED OFF-STREET PARKING AND VARIANCE NO. VA2013-007 FOR AN ENCROACHMENT INTO THE ALLEY SETBACK AND DRIVE AISLE WIDTH LOCATED AT 2828 EAST COAST HIGHWAY (PA2013-090)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by Laidlaw Schultz Architects, with respect to property located at 2828 East Coast Highway, and legally described as Lot 4 and the southeasterly 30 feet of Lot 3, Block N, Tract 323, requesting approval of a Conditional Use Permit and Variance.
- 2. The applicant proposes to demolish the existing building and construct a two-unit commercial building with a surface parking lot with nine parking spaces. The applicant requests a Conditional Use Permit to establish a Parking Management Plan to reduce the required off-street parking by two parking spaces. The applicant requests a Variance to allow the parking spaces to encroach 1-foot into the required 5-foot alley setback and for more than 10-feet of the alley right-of-way to be used to accommodate the required drive aisle width. The site currently has a drive aisle on East Coast Highway. The proposal includes closing up the curb cut, providing one additional onstreet space, and providing access to the parking lot from the alley at the rear of the property.
- 3. The subject property is located within the Commercial Corridor (CC) Zoning District and the General Plan Land Use Element category is Corridor Commercial (CC).
- 4. The subject property is not located within the coastal zone.
- 5. A public hearing was held on August 8, 2013, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 32 (In-Fill Development).

- Class 32 exempts in-fill development meeting the following conditions: the project is consistent with the General Plan and Zoning Code; the proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare, or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site must be able to be adequately served by all required utilities and public services. The property is developed, within the City Boundary, less than 5 acres in area, is surrounded by urban uses, and has no value as habitat.
- 3. The proposed project is consistent with the General Plan and Zoning Code, and would be adequately served by all required utilities and public services. The project would not result in significant effects relating to traffic, noise, air quality or water quality because the proposed project would be developed at a lower intensity than allowed by the General Plan and Zoning Code, and the construction and operation of the project would meet all local, state, and federal requirements. The proposed project meets all of the required conditions to qualify for the Class 32 exemption.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 and Section 20.52.090 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Use Permit Findings

Finding:

A. The use is consistent with the General Plan and any applicable specific plan.

- 1. The anticipated retail sales use is consistent with the CC (Corridor Commercial) land use designation of the General Plan, which is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. Other uses may be permitted in accordance with the CC land use designation. The proposed commercial suites are designed and oriented to serve residents and visitors in the area. The front of the buildings would be designed with planters and glass along East Coast Highway, with a corridor between the buildings from the street to the parking lot. The curb cut would be closed on East Coast Highway, which is intended to foster pedestrian activity along the street. The intent is to also serve customers who walk or bicycle to the establishment.
- General Plan Policy LU 6.16.3 encourages closing curb cuts that interrupt the continuity of street-facing building elevations in pedestrian-oriented districts and locations of high traffic volumes. The proposed curb cut closure and alley access to parking are consistent with this policy.

Finding:

B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

Facts in Support of Finding:

- 1. The anticipated retail sales use is located in the Corridor Commercial (CC) Zoning District, which is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The anticipated retail sales use is permitted by right within this Zoning District. Other uses would be required to conform to the requirements of the CC Zoning District.
- 2. The Conditional Use Permit approval is consistent with Chapter 20.40 (Off-Street Parking) of the Zoning Code regarding the waiver of two (2) of the eleven (11) required parking spaces in conjunction with the Parking Management Plan because the proposed project includes creating additional on-street parking and other parking is available in the area. According to the 2008 Walker Parking Study, the on-street parking near the subject property is underutilized. The study found that during the peak times, parking occupancy on East Coast Highway between Goldenrod Avenue and Heliotrope Avenue was less than 50 percent.

Finding:

C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.

- 1. The proposed project is located within a nonresidential zoning district, but residential uses are located nearby on Goldenrod Avenue and Heliotrope Avenue. The project is similar to and compatible with other neighborhood-serving retail and service uses located on East Coast Highway, including retail sales, service, institutional, and restaurant uses. The size of the building and subject suites are comparable to other buildings in the Corona del Mar area. The proposed retail building is single-story with a Floor Area Ratio of 0.48 where 0.75 is allowed.
- 2. The operational characteristics are proposed to be that of a typical retail sales use that would serve residents, visitors, and employees in the area. The operating characteristics would be compatible with the allowed commercial, institutional, and residential uses in the vicinity.
- 3. The subject site would be developed with nine (9) parking spaces. The proposed project would create an additional on-street parking space by closing up the curb cut on East

Coast Highway, which would also increase pedestrian safety in front of the subject property. Businesses in Corona del Mar often serve pedestrians and bicyclists.

Finding:

D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.

Facts in Support of Finding:

- 1. The lot is approximately 5,568 square feet in area, and is proposed to be developed with a two-tenant building and surface parking lot containing nine (9) parking spaces.
- 2. The proposed project includes a Conditional Use Permit to reduce the requirement by two (2) off-street parking spaces and would not negatively affect emergency access. The lot has street and alley access, the buildings are designed with a corridor between them, and each suite is designed with multiple doors and windows for ingress and egress.
- 3. The Public Works Department, Building Division, and Fire Department have reviewed the application. The project is required to obtain all applicable permits from the City Building and Fire Departments and must comply with the most recent, City-adopted version of the California Building Code.

Finding:

E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

- The anticipated retail sales use is similar to and compatible with other neighborhoodserving retail and service uses in the vicinity. The current use is a retail and service use that has not proven detrimental thus far. Uses other than retail sales will comply with the Commercial Corridor Zoning District.
- 2. The proposed reduction of the required off-street parking would not be detrimental because the site would be developed with nine (9) parking spaces, would create an additional on-street parking space, other parking is available in the vicinity, and is in an area with pedestrian and bicycle activity.

Variance Findings

Finding:

F. There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.

Facts in Support of Finding:

- 1. Closing the curb cut is consistent with General Plan Policy LU 6.16.3; however, it makes it more difficult to maximize the amount of parking available on-site. The lot depth and lot size of the subject property are smaller than several of the lots in Corona del Mar along East Coast Highway. The shape and topography of the site make it difficult to develop the parking along the rear of the property. The rear property line is skewed and the irregular shape of the lot hinders the development of a typical surface parking lot.
- 2. Pursuant to Section 20.38.040, existing nonresidential structures within Corona del Mar that are nonconforming because they exceed the allowed floor area may be demolished and reconstructed to their preexisting height and floor area; provided that not less than the preexisting number of parking spaces is provided. The subject property is not nonconforming due to floor area; therefore, this provision is not applicable.

Finding:

G. Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.

Facts in Support of Finding:

 Strict application of the alley parking setback and drive aisle width would require that the building size be reduced to accommodate the additional parking setback. Several properties in the vicinity do not provide the code-required off-street parking or drive aisle width. The proposed retail building is single-story with a Floor Area Ratio of 0.48 where 0.75 is allowed.

Finding:

H. Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.

Facts in Support of Finding:

1. The application of the 5-foot alley setback and the drive aisle width limit the area that can be dedicated to parking and would reduce the amount of floor area that could be

developed. The proposed encroachment into the rear setback is reasonable in this case due to the short depth of the lot at the northern side of the property and the angle of the parking from the alley. The proposed 4-foot setback affords the property owner a more usable lot area to construct a building at a pedestrian scale and maximize the number of parking spaces.

Finding:

I. Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.

Facts in Support of Finding:

- 1. The proposed 4-foot alley setback and drive aisle width would not result in a special privilege because it is consistent with the neighborhood pattern of development. The proposed encroachment is compatible with similar development in the area. The adjacent property to the east on the opposite side of the alley provides a 5-foot setback to the building, but is developed with landscaping, bollards, and other obstructions adjacent to the alley.
- 2. The proposed retail building is single-story with a Floor Area Ratio of 0.48 where 0.75 is allowed.
- 3. Pursuant to Section 20.38.040, existing nonresidential structures within Corona del Mar that are nonconforming because they exceed the allowed floor area may be demolished and reconstructed to their preexisting height and floor area; provided that not less than the preexisting number of parking spaces is provided. The subject property is not nonconforming due to floor area; therefore, this provision is not applicable.

Finding:

J. Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.

- 1. The proposed parking area would provide adequate setbacks for safe maneuvering for vehicles, as reviewed by the City Traffic Engineer.
- 2. The proposed project would not be built to the maximum intensity allowed within the Zoning Code, and would maximize the amount of parking that could be developed across the rear of the site.
- 3. The proposed project would provide the required drive aisle width, including the 4-foot setback and 14-foot wide alley right-of-way.

Finding:

K. Granting of the variance will not be in conflict with the intent and purpose of this section, this Zoning Code, the General Plan, or any applicable specific plan.

Facts in Support of Finding:

- 1. The granting of the 1-foot encroachment into the alley setback and using the entire alley right-of-way to accommodate the required width would not conflict with intent and purpose of the Zoning Code or General Plan. The alley setback is required to provide adequate and safe maneuvering drive aisles. In this case, the vehicles would not enter the abutting alley in a forward direction; however, the required drive aisle width would be provided.
- 2. The intent of the alley parking setback is to provide adequate maneuvering for vehicles entering and leaving the site. The proposed design maintains a 4-foot setback and the required drive aisle width. The request to deviate from the alley setback and drive aisle width is reasonable and justified due to the depth, topography, and angle of the lot.
- 3. The subject property is not located within a specific plan district.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
- 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 8TH DAY OF AUGUST, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____

Michael Toerge, Chairman

BY:_____

Fred Ameri, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL

PLANNING

- 1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
- 2. Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
- 3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
- 4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Conditional Use Permit and Variance.
- 5. This Conditional Use Permit and Variance may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
- 6. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or leasing agent.
- 7. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, Cityadopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
- 8. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
- 9. Prior to the issuance of a building permit for the proposed project, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
- 10. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that

produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.

- 11. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
- 12. An encroachment permit is required for all work activities within the public right-of-way.
- 13. Prior to final of the building permit for the proposed project, the driveway approach on East Coast Highway shall be closed per City Standard STD-165-L.
- 14. Prior to final of the building permit for the proposed project, a minimum of one new onstreet parking space shall be installed in the area where the existing driveway on East Coast Highway is being closed.
- 15. Prior to the issuance of a building permit for the proposed project, approval shall be provided from Southern California Edison for the proposed guy wire relocation locate adjacent to the alley behind the property.
- 16. Due to the proposed design of the trash enclosure door swinging into the adjacent parking stalls, trash pickup shall be scheduled outside of normal business hours.
- 17. The proposed tandem parking stalls shall be employee only parking and the tandem stalls shall be assigned to the same tenant suite.
- 18. Prior to final of the building permit for the proposed project, all damaged or broken curb, gutter and sidewalk along the East Coast Highway project frontage shall be reconstructed per City standards. The extent of the reconstruction shall be at the discretion of the Public Works Inspector.
- 19. Prior to final of the building permit for the proposed project, all damaged or broken concrete alley panels shall be reconstructed per City Standard. The extent of the reconstruction shall be at the discretion of the Public Works Inspector.
- 20. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Schulein Parking Use Permit and Variance including, but not limited to, the Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007. This indemnification shall include, but not be limited to, damages

awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.



Draft Resolution - Deny

RESOLUTION NO.	
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A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING CONDITIONAL USE PERMIT NO. UP2013-007 FOR A REDUCTION IN REQUIRED OFF-STREET PARKING AND VARIANCE NO. VA2013-007 FOR AN ENCROACHMENT INTO THE ALLEY SETBACK AND DRIVE AISLE WIDTH LOCATED AT 2828 EAST COAST HIGHWAY (PA2013-090)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by Laidlaw Schultz Architects, with respect to property located at 2828 East Coast Highway, and legally described as Lot 4 and the southeasterly 30 feet of Lot 3, Block N, Tract 323, requesting approval of a Conditional Use Permit and Variance.
- 2. The applicant proposes to demolish the existing building and construct a two-unit commercial building with a surface parking lot with nine parking spaces. The applicant requests a Conditional Use Permit to establish a Parking Management Plan to reduce the required off-street parking by two parking spaces. The applicant requests a Variance to allow the parking spaces to encroach 1-foot into the required 5-foot alley setback and for more than 10-feet of the alley right-of-way to be used to accommodate the required drive aisle width. The site currently has a drive aisle on East Coast Highway. The proposal includes closing up the curb cut, providing one additional onstreet space, and providing access to the parking lot from the alley at the rear of the property.
- 3. The subject property is located within the Commercial Corridor (CC) Zoning District and the General Plan Land Use Element category is Corridor Commercial (CC).
- 4. The subject property is not located within the coastal zone.
- 5. A public hearing was held on August 8, 2013, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

The Planning Commission may approve a conditional use permit only after making each of the required findings set forth in Section 20.52.020 (Conditional Use Permits and Minor Use Permits). In this case, the Planning Commission was unable to make the required findings based upon the following:

- 1. The Conditional Use Permit application for the reduction in the required off-street parking is not consistent with the legislative intent of Title 20 of the Municipal Code and the findings required by Section 20.52.020 are not supported in this case. The proposed project may prove detrimental to the community.
- 2. The design, location, size, and operating characteristics of the use are not compatible with the allowed uses in the vicinity. The proposed project with only nine (9) parking spaces is not compatible with the existing residential, institutional, and commercial uses in the area.

The Planning Commission may approve a variance only after making each of the required findings set forth in Section 20.52.090 (Variances). In this case, the Planning Commission was unable to make the required findings based upon the following:

- 1. The Variance application for the proposed encroachment in the alley setback for parking is not consistent with the legislative intent of Title 20 of the Municipal Code and the findings required by Section 20.52.090 are not supported in this case. The proposed project may prove detrimental to the community.
- 2. The irregular shape, size, and topography of this property do not preclude the construction of a reasonable size building. The proposed project can be redesigned to comply with the required development standards and approval of the Variance is not necessary to preserve this substantial property right.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby denies Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007.
- 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED. APPROVED	AND ADOPTED THIS 8TH	DAY OF AUGUST, 2013.
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AYES:
NOES:
ABSTAIN:
ABSENT:

BY:

Michael Toerge, Chairman

BY:

Fred Ameri, Secretary

Applicant's Project Description



3111 Second Avenue Corona del Mar, CA 92625-2322 T: (949) 645-9982 F: (949) 645-9554 W: LSarchitects.com

July 31, 2013

Community Development Department Planning Division 3300 Newport Blvd. Newport Beach, CA 92663 www.newportbeachca.gov

RE: Revised project description and justification of a Planning Permit for the Modification and Variance to the required parking standards at 2828 E. Coast Highway.

As agent representing the ownership of 2828 E. Coast Highway, I submit for your review this letter of justification with the attached Planning Permit Application. The property owner proposes to construct 2,637 sf of new commercial space to replace the existing 1,400 sf. of existing space currently occupying the property in one of the last two remaining "temporary" buildings on Coast Hwy. The proposed retail use is both allowed in the CC zone, consistent with the General Plan's call for pedestrian oriented uses and significantly less area than the allowable 4,155 sf for the site (0.75FAR x 5,540 sf lot area). The parking requirement for the retail use is 1sp/250sf requiring a total of 11 spaces. The owner is requesting a Modification to the parking standard for the reduction in the required offstreet parking from 11 spaces to 9 spaces. Also, our parking lot plan requires a Variance to the required parking setback from 5'-0" to 4'-0".

We have created a three pronged parking management plan to help justify the Planning Permit. First, one new on-street parking space directly in front of the property is created by removing the existing curb cut and driveway. The increased on-street parking will both serve the proposed building as well as enhance parking in the general vicinity.

Second, the design divides the building into two separate suites. The two spaces are split by a shared walk/breezeway that connects the rear alley and adjacent new parking lot to the public sidewalk at the building's front on Coast Hwy. Combined with the glass line being pulled back from the street to accommodate landscaping, the breezeway encourages (handicap accessible) pedestrian travel and use.

Third, the parking lot design maximizes the number of spaces that can be accessed from the alley including four employee only tandem spaces. Due to the irregular shape and slope of the lot, utilizing the alley as part of our drive aisle is the only feasible way to develop the lot. Placing a drive aisle thru the lot from the alley to Coast Hwy would require a sloped condition greater than 5% (illegal for parking) and eats up almost all of the site's buildable area. The slope requires us to back fill and re-grade the rear portion of the property. In order to limit the amount of costly grading we're requesting a reduced alley

parking setback from 5'-0" to 4'-0. The site's shape creates a 55 degree angled stall orientation to the alley. With the 4' parking setback, the angled orientation provides enough space to meet the minimum parking lot drive aisle requirements of Public Works Standard STD-805-L-A. We can further justify the reduced setback and adequacy of the drive aisle width due to the unlikelihood of parking ever occurring on the opposite side of the alley. While the typical alley would have parking on both sides, the church side yard ensures that parking will not occur on the opposite side. The reduced setback was reviewed and accepted by the city's traffic engineer.

Given the proposed retail use is legal and our parking management plan maximizes both the parking available on and off site, I submit that: 1.) The proposed parking arrangement is the maximum amount of legal parking the shape, size, and slope of the lot will allow; 2.) The location and design of the site will allow for a greater than normal walk in trade; 3.) The design, location, size and operating characteristics of the use are compatible with the allowed uses in the vicinity; 4.) The proposed use and parking plan in terms of design, location, shape, size, pedestrian and vehicle access, and operating characteristics, along with the existence of public services and utilities is physically suitable for the site; and 5.) Operation of the use and parking management plan at the location would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.

Therefore, I ask that you review and approve the subject Planning Permit Application. Thank you in advance for your review of the application and do not hesitate to contact me with any questions.

Sincerely,

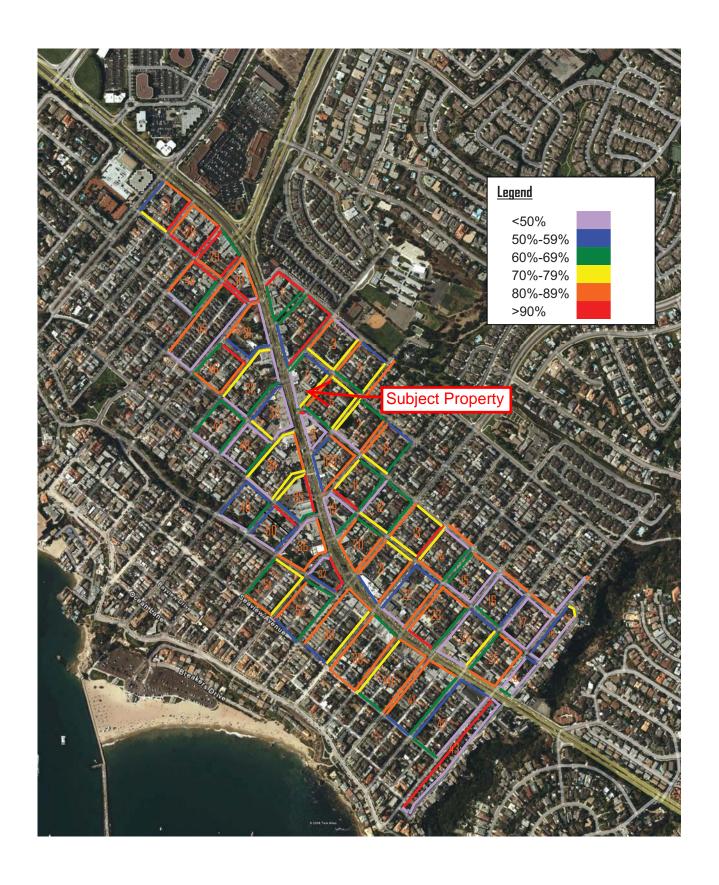
Scott Laidlaw

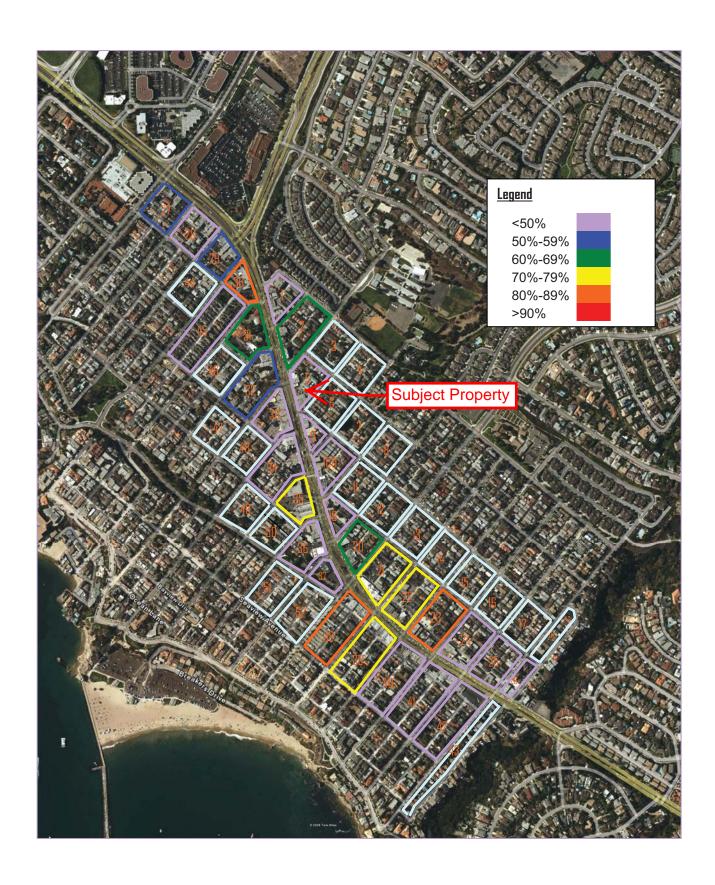
Laidlaw Schultz Architects

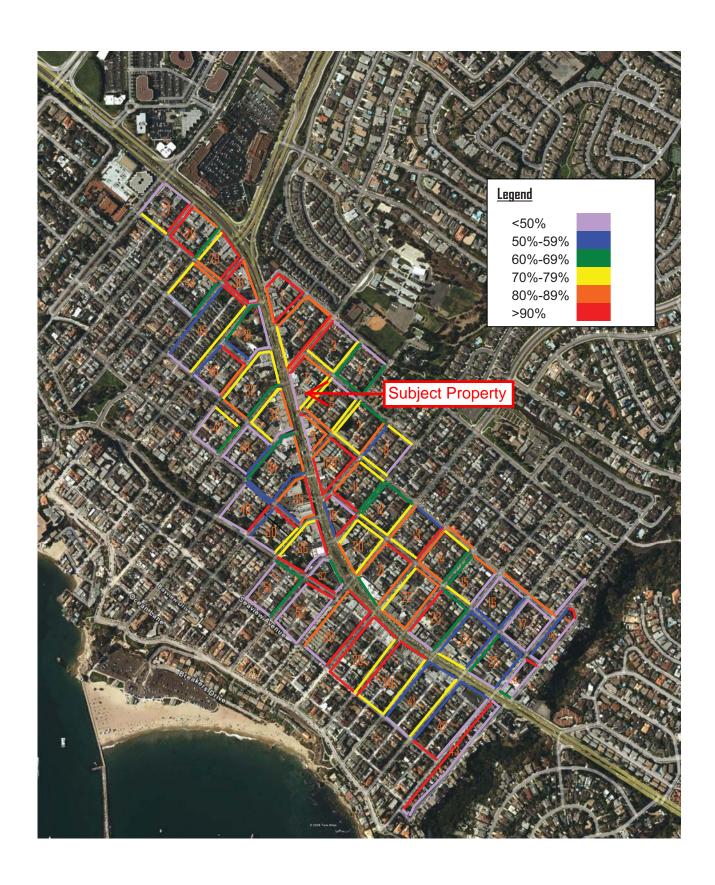
cc: Jeff Schulein

attachments:
Planning Permit Application
(7) sets of full-size plans
(5) sets of reduced plans
Title Report
Mailing labels
Electronic Copy of all the attachments

Walker Parking Study Excerpt









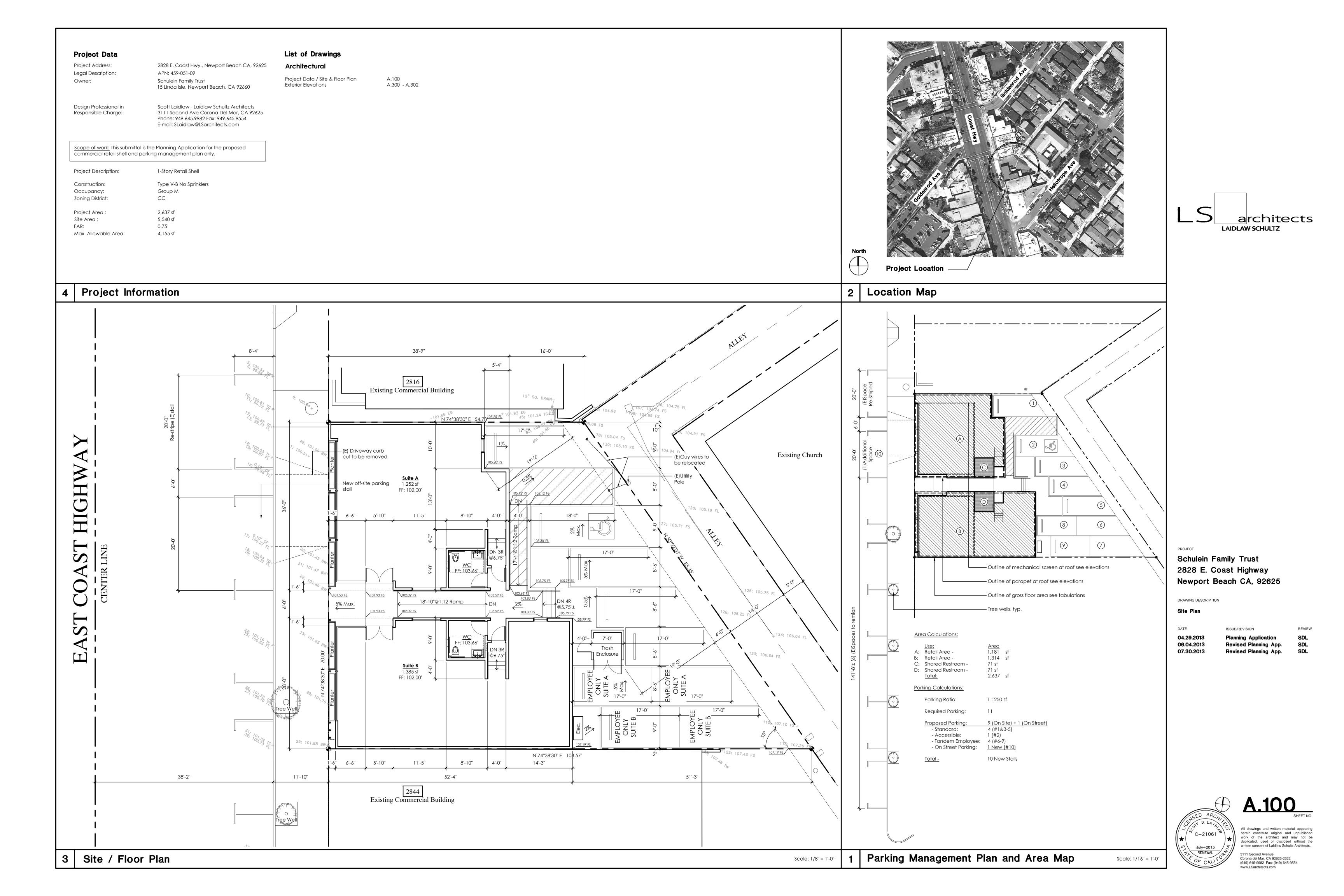
Parking Management Plan

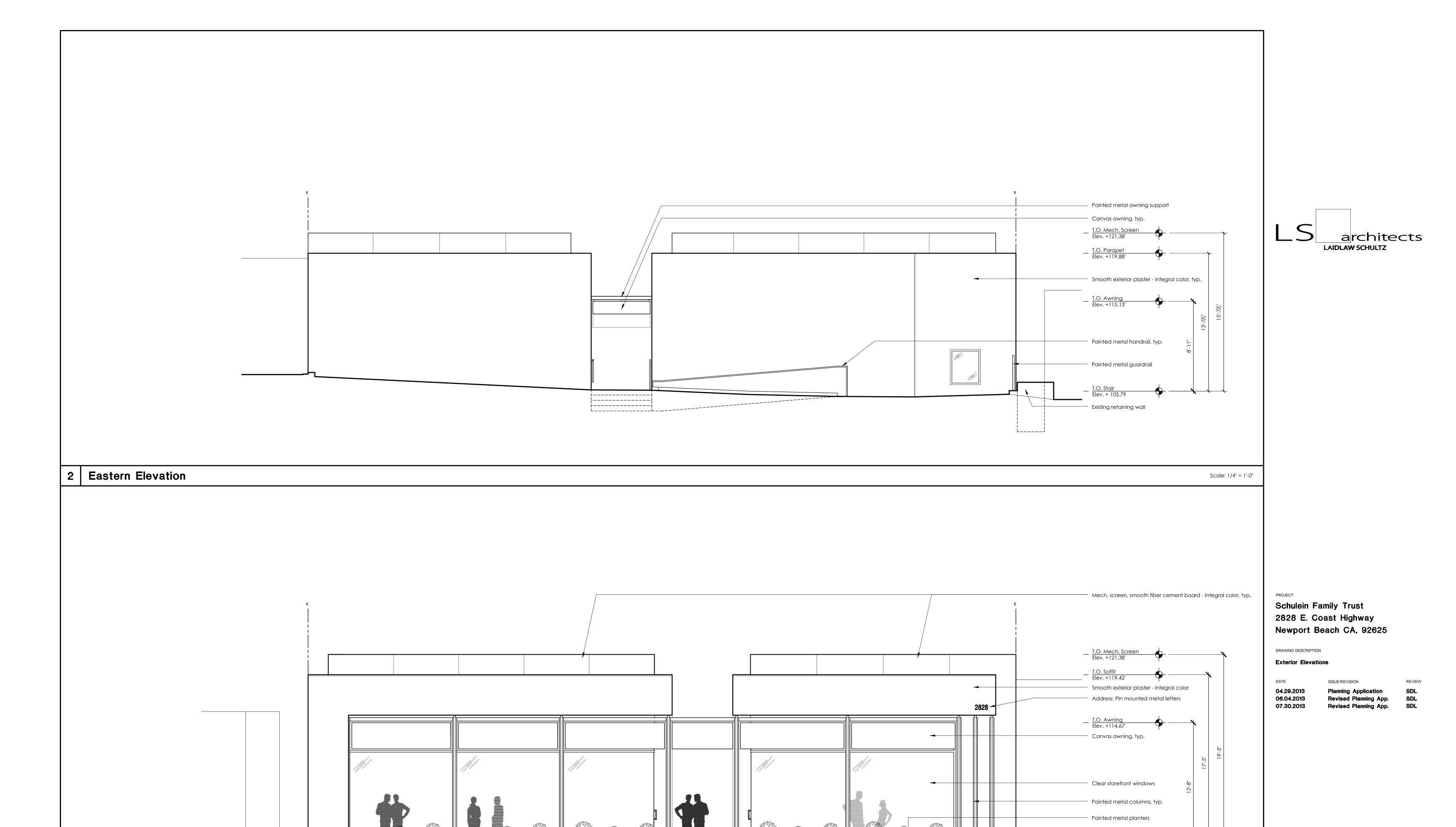
Parking Management Plan (PA2013-090) 2828 East Coast Highway August 8, 2013

The following Parking Management Plan is provided pursuant to Section 20.40.110 (Adjustments to Off-Street Parking Requirements) of the Zoning Code. The Parking Management Plan will employ the following management mechanisms to mitigate impacts associated with reducing the required off-street parking by two (2) parking spaces as required by Chapter 20.40 of the Zoning Code:

- Nine (9) parking spaces shall be provided on-site.
- The curb cut along East Coast Highway shall be closed and at least one (1) onstreet parking space shall be created.
- The parking layout may include up to four (4) tandem parking spaces.
- The tandem spaces shall be used for employees only. Each tenant suite shall be assigned one set of tandem parking spaces.
- Employees who drive to work shall park in the applicable employee tandem parking spaces when available.

Project Plans

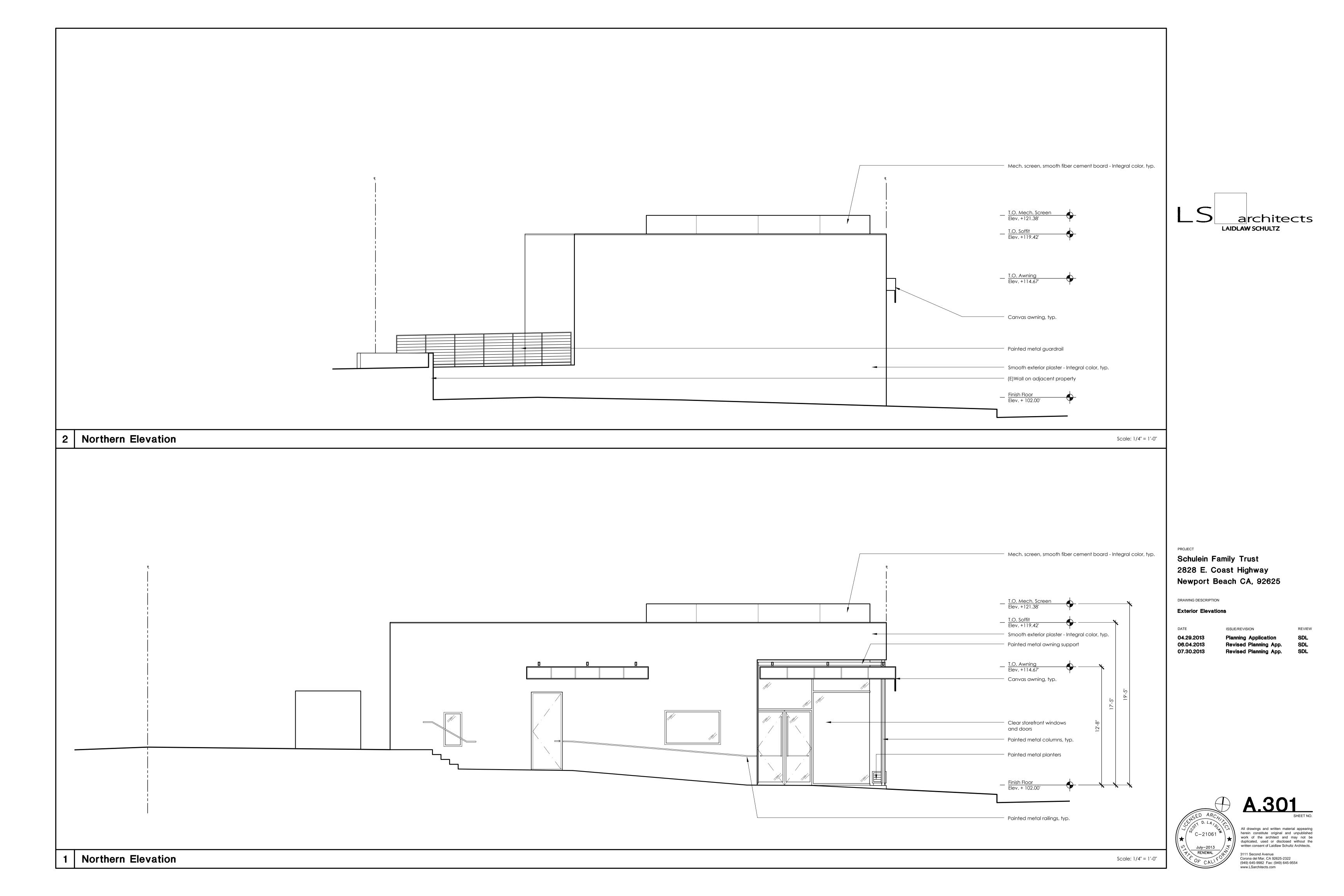


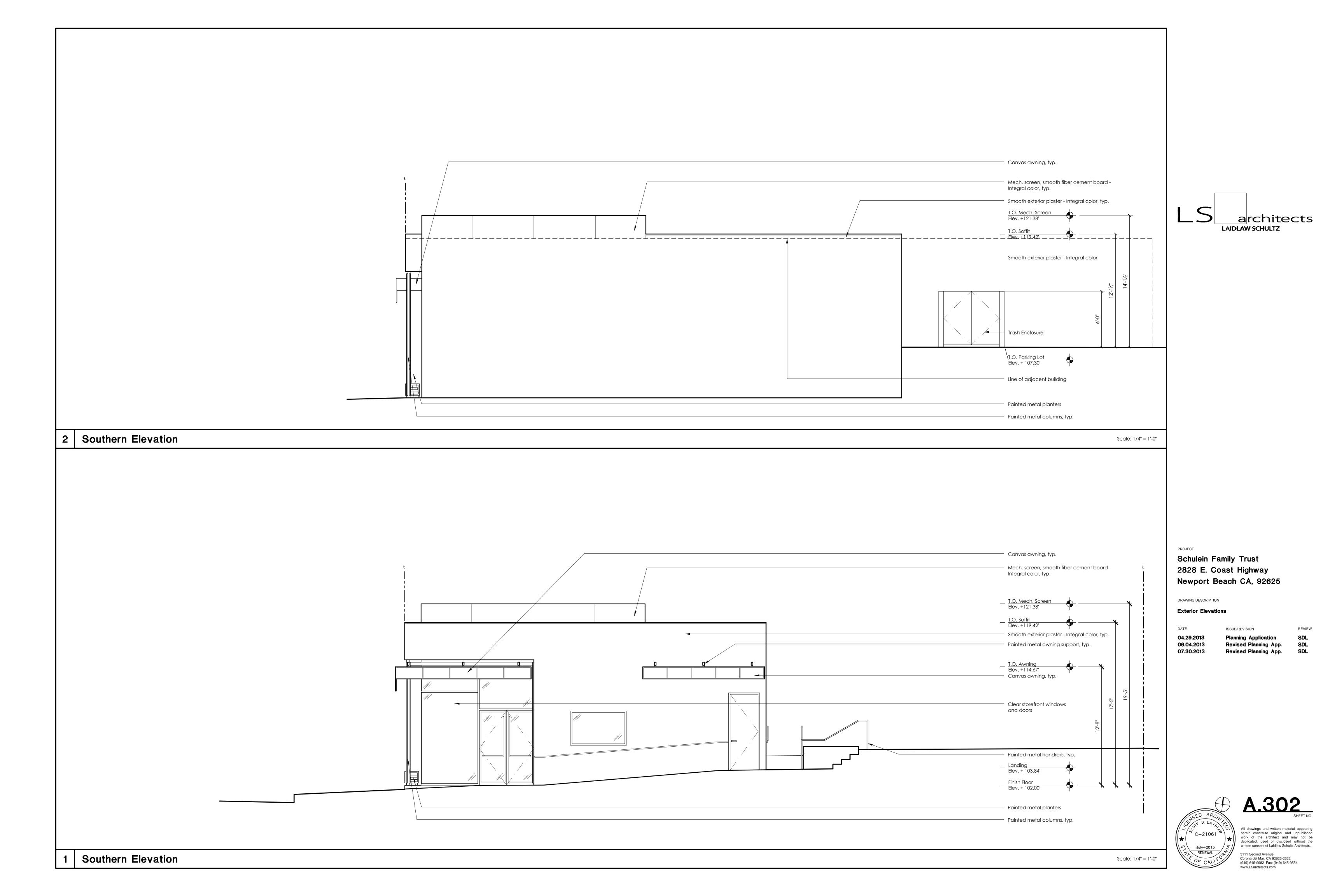


All drawings and written material appearing herein constitute original and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of Laidlaw Schultz Architects.

3111 Second Avenue
Corona del Mar, CA 92625-2322
(949) 645-9982 Fax: (949) 645-9554
www.LSarchitects.com

Western Elevation





Correspondence Item No. 4a

Burns, Marlene Schulein Parking Use Permit and Variance

PA2013-090

From: Sent: Ron Yeo [ronyeo@me.com] Sunday, August 04, 2013 8:30 AM

To:

Burns, Marlene

Subject:

Item #4 8/8/13 meeting

Schulein project

Honorable Planning Commissioners.......

This project will be a benefit for CdM and should be approved. The variances requested are minor and should not be a problem.

It is time to replace the old relocatable sales office

Schulein Parking Conditional Use Permit and Variance 2828 East Coast Highway PA2013-090

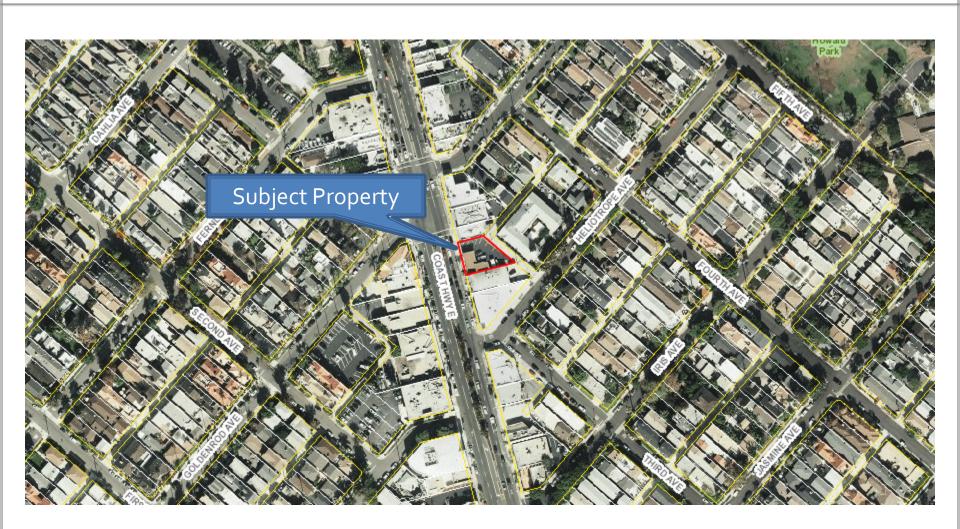


Planning Commission Public Hearing August 8, 2013



Vicinity Map





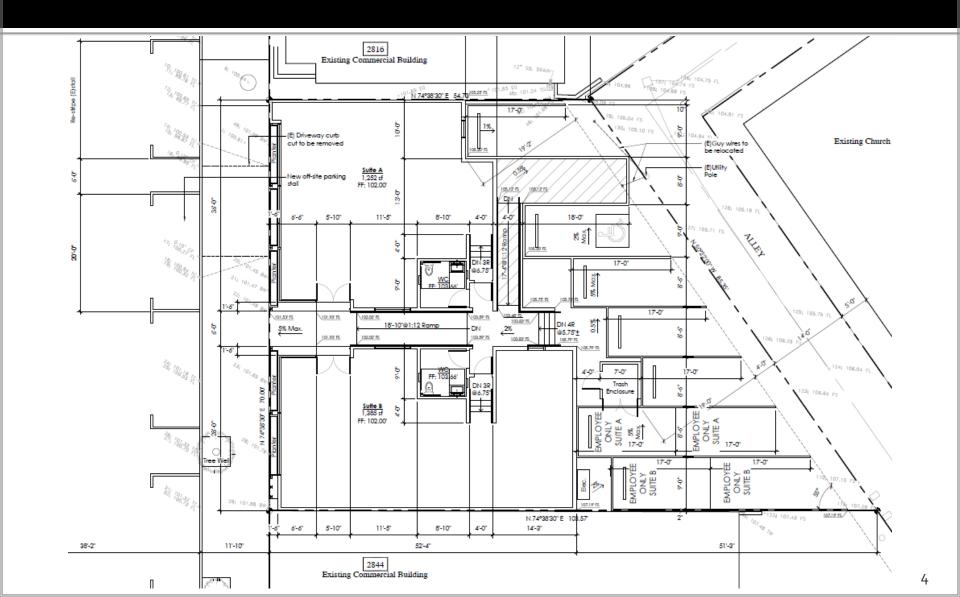
Project Rendering





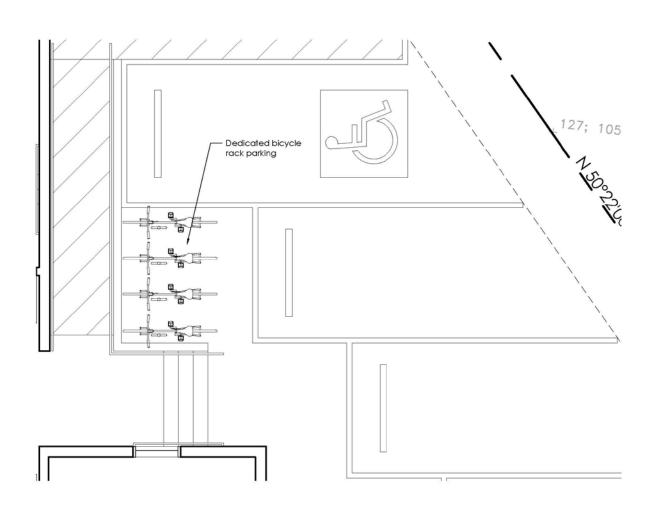
Site Plan





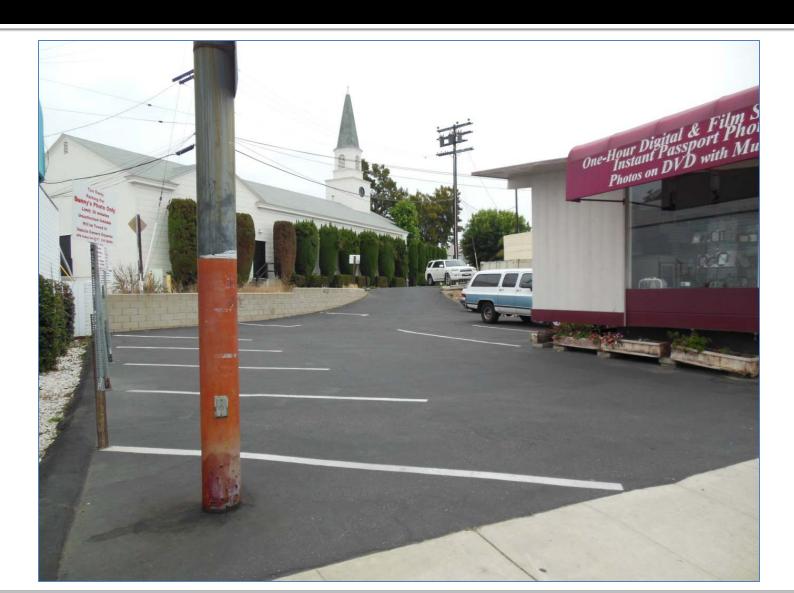
Bicycle Racks





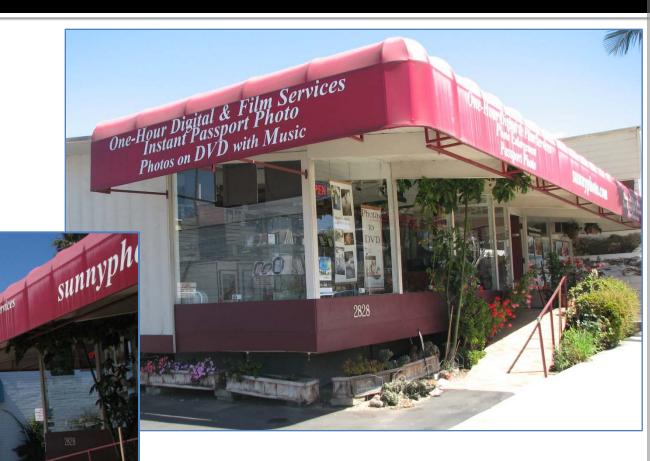
Photographs





Photographs





Required Findings





Recommendation



- Conduct a public hearing; and
- Adopt the draft Resolution approving Conditional Use Permit No. UP2013-007 and Variance No. VA2013-007.

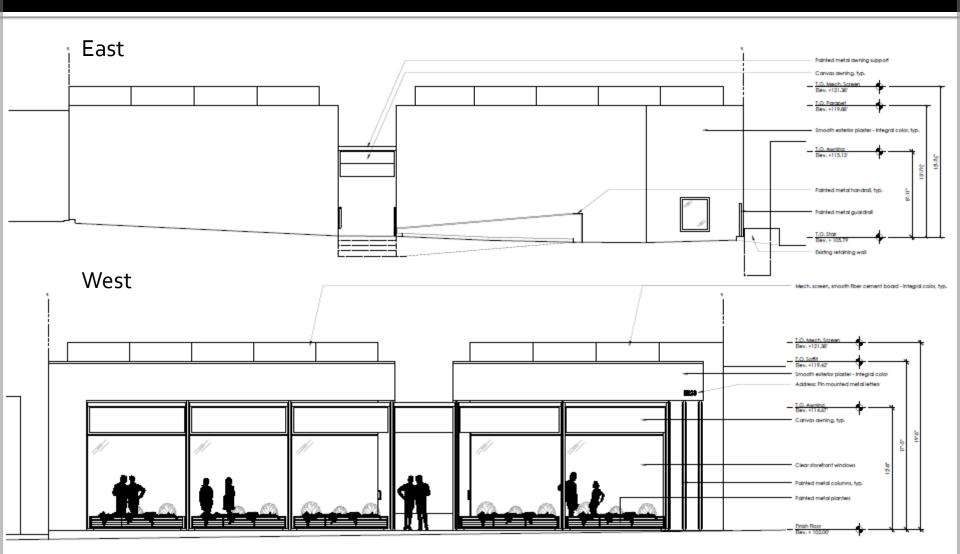


For more information contact:

Fern Nueno 949-644-3227 fnueno@newportbeachca.gov www.newportbeachca.gov

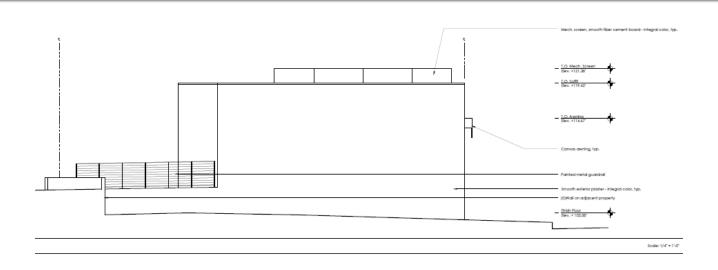
East and West Elevations

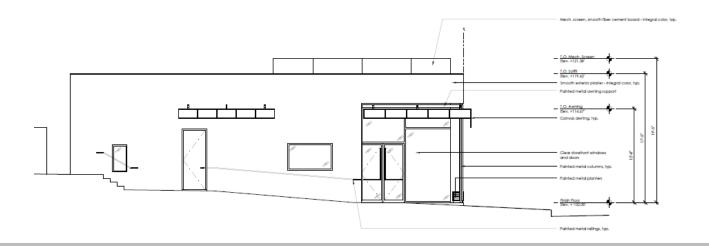




North Elevation







South Elevation



